

July 30, 2004

TITLE 22. EMPLOYMENT DEVELOPMENT DEPARTMENT

**Amendment of Sections 2712-1, 2712-2, 3253-1, 3254-2
and Adoption of Section 3254-4 of
Title 22, California Code of Regulations**

VOLUNTARY PLANS--FAMILY TEMPORARY DISABILITY INSURANCE

Notice of Proposed Rulemaking

The Employment Development Department (Department) proposes to amend sections 2712-1, 2712-2, 3253-1, 3254-2, and to adopt section 3254-4 of the California Code of Regulations (CCR), title 22, on an emergency basis.

The Department will adopt these regulations after considering all comments, objections, or recommendations regarding the proposed regulatory action.

PUBLIC HEARING

Hearing Date and Location

Date and Time: Wednesday, September 15, 2004
10:00 a.m.

Location: The Tower at Convention Center Court
855 M Street
Suite 810
Fresno, CA 93721

Representatives of the Department will preside at the hearing. The public hearing will convene at 10 a.m. and will adjourn immediately after hearing the last public comment by those individuals present. Persons who wish to speak are requested to register before the hearing. Pre-hearing registration will be conducted at the hearing location from 9:15 a.m. to 9:45 a.m. Registered persons will be heard in the order of their registration. Any other person wishing to speak at the hearing will be afforded an opportunity after the registered persons have been heard.

At the hearing, any person may present statements, arguments or contentions, orally or in writing, relevant to the proposed regulatory action described in the Informative

Digest/Policy Statement Overview. The Department requests, but does not require, persons who make oral comments also to submit a written copy of their testimony.

Due to enhanced security precautions, it may be required that visitors sign in prior to attending any meetings or hearings. Depending on their destination and the building security level, visitors may be asked to show valid identification. Valid identification can take the form of a current driver's license, military identification card, or state or federal identification card, or other form of identification.

Access to Hearing Room

The facility to be used for the public hearing is accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person (listed below) for this hearing in order to make special arrangements, if necessary.

WRITTEN COMMENT PERIOD

Statements, arguments or contentions regarding the proposed regulatory action must be submitted in writing, or may be presented orally or in writing at the public hearing, in order for them to be considered by the Department before it adopts the proposed regulations.

Any interested person, or his or her authorized representative, may submit written comments on the proposed action to Laura Colozzi via U.S. mail, e-mail, or fax (see U.S. mail and e-mail addresses and fax number indicated below). **E-mail comments should include true name and mailing address of the commentor. Written comments submitted via U.S. mail, e-mail, or fax, must be received by the Department no later than September 15, 2004, at 5 p.m.** Please submit any written comments before that time. The Department cannot accept written comments after the close of the public comment period.

CONTACT PERSONS

Inquiries or comments should be directed to:

(Mailing address)	Laura Colozzi, Legal Analyst Employment Development Department P. O. Box 826880 Legal Office, MIC 53 Sacramento, CA 94280-0001
(Hand delivery)	Laura Colozzi, Legal Analyst Employment Development Department 800 Capitol Mall, Room 5020 Legal Office, MIC 53 Sacramento, CA 95814

Telephone No.: (916) 654-7712
Fax No.: (916) 654-9069
E-Mail Address: eddlegal@edd.ca.gov

Note: In the event Laura is unavailable, inquiries should be directed to the following backup contact persons at the same address as noted above:

Name: Penny Ayers
Telephone No.: (916) 654-8410

Questions regarding the substance of the proposed regulatory action should be directed to:

Name: Terence R. Savage
Telephone No.: (916) 654-8410

Internet Website Access

The Department has posted on its Internet website <http://www.edd.ca.gov> materials regarding the proposed regulatory action. Select "Proposed EDD Regulations."

Authority and Reference:

Authority: Sections 305, 306, and 2602, Unemployment Insurance Code.
Reference: Sections 1265, 1265.5, 1265.7, 2608, 2629, 2708, 2712, 3253, 3254, 3255, 3257, 3262, 3271, 3301, 3302, 3302.1, 3303, and 3306, Unemployment Insurance Code.

Informative Digest/Policy Statement Overview:

The Department extends approval to employers to operate voluntary plans for short-term disability insurance coverage, in lieu of State Disability Insurance (SDI) coverage, as set forth in Division 1, Part 2, Chapter 6, of the California Unemployment Insurance Code (code) and CCR, title 22. The express purpose of Part 2 of the code is to compensate in part for the wage loss sustained by individuals unemployed because of sickness or injury.

Senate Bill 1661 (Stats. 2002, Ch. 901) and Senate Bill 727 (Stats. 2003, Ch. 797) created and added the Family Temporary Disability Insurance (FTDI) benefit program as a component to California's State Disability Insurance program. The FTDI benefit program, also known as the Paid Family Leave (PFL) insurance program, provides partial wage replacement to workers taking family care leave and is administered in accordance with the provisions of Part 2 of the code.

The FTDI program was created for workers who are unable to perform their regular and customary work when they are either providing care to a seriously ill child, spouse, parent, registered domestic partner, or bonding with a new minor child. Workers may be eligible for FTDI benefits for claims commencing on and after July 1, 2004.

Voluntary plan employers must comply with the FTDI benefit provisions created by Senate Bills 1661 and 727. The proposed regulatory amendments explain this new component of the SDI program and its effect on voluntary plans.

Under code sections 305 and 306, the Department is authorized to adopt, amend, or repeal regulations for the administration of the functions of the Department. Under code sections 2625, 2706, 2708, 3301, 3302, and 3303, benefits are payable from the Disability Fund to individuals who file claims for benefits in accordance with authorized regulations and are eligible to receive such benefits. Under code sections 3251, 3253, 3254, and 3255, a qualified employer is able to provide the benefits to employees electing coverage under the employer's voluntary plan.

This regulatory action will ensure that the public peace, health and safety, and general welfare are protected.

Fiscal Impact:

Anticipated costs or savings in federal funding to the State: None

Anticipated costs or savings to any State Agency: None

Anticipated costs or savings to any local agency or school district: None

Significant statewide adverse economic impact: The Department does not anticipate this regulatory action will result in any costs to the federal government, to State government, to local county governments, to private individuals, or to businesses and small businesses. Thus, no costs were shown on the Economic and Fiscal Impact Statement.

The Department has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states because any costs associated with the FTDI program are the result of the enactment of the legislation and not the implementation of the regulations. The Department has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California; the creation of new businesses or the elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.

The costs impact on representative persons or businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulatory action.

Anticipated impact on housing costs: The proposed regulatory action will have no effect on housing costs.

Anticipated nondiscretionary costs or savings imposed upon local agencies:
None

Small Business Impact:

The Department has determined that the proposed regulatory action will have no effect on small businesses because it does not impose any new mandates on small non-voluntary plan businesses. The proposed regulatory action does not require that small businesses take any action or refrain from taking any action in regards to conducting business.

Local Mandate Determination:

The Department has determined that the proposed regulatory action will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with section 17500), Division 4 of the Government Code.

Consideration of Alternatives:

In accordance with section 11346.5(a)(13) of the Government Code, the Department must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

Modification of Proposed Action:

If the Department makes any additional changes based on public testimony, those changes (other than nonsubstantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted. Copies of any additional changes regarding the proposed regulatory action will be mailed to all persons who testified or submitted written comments at the public hearing; whose comments were received by the Department during the public comment period; and who requested notification from the Department of the availability of such changes.

Final Statement of Reasons:

After the close of the 45-day public comment period, the Department will summarize and respond to all public comments in a written final statement of reasons. To obtain a copy of the final statement of reasons, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

Further Information:

The Department has prepared and has available for review, upon request, the text of the proposed regulations discussed in this notice, written in plain English; a statement of reasons setting forth the purpose of the proposed regulations; and the information upon which the Department relied in proposing the regulations. (If you received this notice by mail, a copy of the text of the proposed regulations and the statement of reasons were enclosed.) To obtain a copy, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review. For inquiries regarding the rulemaking file or the regulations' process, contact the persons noted above.
